
By: **The Speaker and the Minority Leader (By Request - Administration)**
and Delegates Edwards, Amedori, Anderson, Arnick, Aumann, Barkley,
Bartlett, Bates, Bobo, Boschert, Boteler, Boutin, Branch, Bromwell,
Burns, Cluster, Costa, Cryor, C. Davis, DeBoy, Dwyer, Eckardt, Elliott,
Elmore, Frank, Fulton, Glassman, Haddaway, Hennessy, Hogan,
Impallaria, Jennings, Kach, Kelly, Krebs, McComas, McDonough,
McKee, Mitchell, Niemann, O'Donnell, Owings, Parrott, Shank, Smigiel,
Sossi, Stocksdale, Trueschler, Vaughn, Walkup, and Weldon

Introduced and read first time: January 27, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes and Criminal Procedure - Victim and Witness Intimidation**

3 FOR the purpose of prohibiting a person from harming another, threatening to harm
4 another, or damaging or destroying property with the intent to induce a victim
5 or witness not to report the existence of facts relating to a crime or delinquent
6 act; prohibiting solicitation of another person to harm another, threaten to harm
7 another, or damage or destroy property with the intent to induce a victim or
8 witness not to report the existence of facts relating to a crime or delinquent act;
9 prohibiting a person from threatening to harm another with the intent of
10 retaliating against a victim or witness for giving testimony in an official
11 proceeding or reporting a crime or delinquent act; prohibiting a person from
12 soliciting another person to harm another, threaten to harm another, or damage
13 or destroy property with the intent of retaliating against a victim or witness for
14 giving testimony in an official proceeding or reporting a crime or delinquent act;
15 prohibiting a person, by threat, force, or corrupt means, from trying to influence,
16 intimidate, or impede an officer of a court of the United States in the
17 performance of the person's official duties; prohibiting a person from soliciting
18 another person to, by threat, force, or corrupt means, try to influence,
19 intimidate, or impede a juror, a witness, or an officer of a court of the State or of
20 the United States in the performance of the person's official duties; increasing
21 certain penalties; providing that if the testimony, subpoena, official proceeding,
22 or report involving a victim or witness relates to a felony, a person who violates
23 certain provisions of this Act is guilty of a felony and on conviction is subject to
24 a certain term of imprisonment; providing that certain sentences imposed under
25 certain provisions of this Act may be separate from and consecutive to or
26 concurrent with a sentence for certain other crimes; providing that certain
27 statements made by certain victims or witnesses are not excluded in a judicial
28 proceeding by the hearsay rule under certain circumstances; and generally

1 relating to crimes against victims and witnesses.

2 BY repealing and reenacting, without amendments,

3 Article - Criminal Law

4 Section 9-301(c) and (d)

5 Annotated Code of Maryland

6 (2002 Volume and 2003 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Criminal Law

9 Section 9-302, 9-303, and 9-305

10 Annotated Code of Maryland

11 (2002 Volume and 2003 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - Courts and Judicial Proceedings

14 Section 3-8A-03(d)(4)(xvi) and (xvii)

15 Annotated Code of Maryland

16 (2002 Replacement Volume and 2003 Supplement)

17 BY adding to

18 Article - Courts and Judicial Proceedings

19 Section 3-8A-03(d)(4)(xviii) and 10-901

20 Annotated Code of Maryland

21 (2002 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article - Criminal Procedure

24 Section 4-202(b)

25 Annotated Code of Maryland

26 (2001 Volume and 2003 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article - Criminal Law**

30 9-301.

31 (c) "Victim" means a person against whom a crime or delinquent act has been
32 committed or attempted.

33 (d) "Witness" means a person who:

1 (1) has knowledge of the existence of facts relating to a crime or
2 delinquent act;

3 (2) makes a declaration under oath that is received as evidence for any
4 purpose;

5 (3) has reported a crime or delinquent act to a law enforcement officer,
6 prosecutor, intake officer, correctional officer, or judicial officer; or

7 (4) has been served with a subpoena issued under the authority of a
8 court of this State, any other state, or the United States.

9 9-302.

10 (a) A person may not harm another, threaten to harm another, or damage or
11 destroy property with the intent to:

12 (1) influence a victim or witness to testify falsely or withhold testimony;
13 or

14 (2) induce a victim or witness:

15 (i) to avoid the service of a subpoena or summons to testify; [or]

16 (ii) to be absent from an official proceeding to which the victim or
17 witness has been subpoenaed or summoned; OR

18 (III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A
19 CRIME OR DELINQUENT ACT.

20 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO HARM ANOTHER,
21 THREATEN TO HARM ANOTHER, OR DAMAGE OR DESTROY PROPERTY WITH THE
22 INTENT TO:

23 (1) INFLUENCE A VICTIM OR WITNESS TO TESTIFY FALSELY OR
24 WITHHOLD TESTIMONY; OR

25 (2) INDUCE A VICTIM OR WITNESS:

26 (I) TO AVOID THE SERVICE OF A SUBPOENA OR SUMMONS TO
27 TESTIFY;

28 (II) TO BE ABSENT FROM AN OFFICIAL PROCEEDING TO WHICH
29 THE VICTIM OR WITNESS HAS BEEN SUBPOENAED OR SUMMONED; OR

30 (III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A
31 CRIME OR DELINQUENT ACT.

32 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
33 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on

1 conviction is subject to imprisonment not exceeding 5 years OR A FINE NOT
2 EXCEEDING \$5,000 OR BOTH.

3 (2) IF THE TESTIMONY, SUBPOENA, OFFICIAL PROCEEDING, OR REPORT
4 INVOLVING THE VICTIM OR WITNESS RELATES TO A FELONY, INCLUDING AN
5 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT A FELONY, A PERSON WHO
6 VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT
7 TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

8 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
9 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED
10 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

11 9-303.

12 (a) A person may not intentionally harm another, THREATEN TO HARM
13 ANOTHER, or damage or destroy property with the intent of retaliating against a
14 victim or witness for:

15 (1) giving testimony in an official proceeding; or

16 (2) reporting a crime or delinquent act.

17 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO INTENTIONALLY HARM
18 ANOTHER, THREATEN TO HARM ANOTHER, OR DAMAGE OR DESTROY PROPERTY
19 WITH THE INTENT OF RETALIATING AGAINST A VICTIM OR WITNESS FOR:

20 (1) GIVING TESTIMONY IN AN OFFICIAL PROCEEDING; OR

21 (2) REPORTING A CRIME OR DELINQUENT ACT.

22 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
23 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on
24 conviction is subject to imprisonment not exceeding 5 years OR A FINE NOT
25 EXCEEDING \$5,000 OR BOTH.

26 (2) IF THE OFFICIAL PROCEEDING OR REPORT DESCRIBED IN
27 SUBSECTION (A) OF THIS SECTION RELATES TO A FELONY OR A DELINQUENT ACT
28 BASED ON A FELONY, INCLUDING AN ATTEMPT, CONSPIRACY, OR SOLICITATION TO
29 COMMIT A FELONY, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
30 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

31 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
32 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED
33 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

1 9-305.

2 (a) A person may not, by threat, force, or corrupt means, try to influence,
3 intimidate, or impede a juror, a witness, or an officer of a court of the State OR OF THE
4 UNITED STATES in the performance of the person's official duties.

5 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO, BY THREAT, FORCE, OR
6 CORRUPT MEANS, TRY TO INFLUENCE, INTIMIDATE, OR IMPEDE A JUROR, A WITNESS,
7 OR AN OFFICER OF THE COURT OF THE STATE OR OF THE UNITED STATES IN THE
8 PERFORMANCE OF THE PERSON'S OFFICIAL DUTIES.

9 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
10 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on
11 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
12 [\$10,000] \$5,000 or both.

13 (2) IF AN ACT DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS
14 TAKEN IN CONNECTION WITH A PROCEEDING INVOLVING A FELONY, INCLUDING AN
15 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT A FELONY, A PERSON WHO
16 VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT
17 TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

18 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
19 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED
20 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

21 **Article - Courts and Judicial Proceedings**

22 3-8A-03.

23 (d) The court does not have jurisdiction over:

24 (4) A child at least 16 years old alleged to have committed any of the
25 following crimes, as well as all other charges against the child arising out of the same
26 incident, unless an order removing the proceeding to the court has been filed under §
27 4-202 of the Criminal Procedure Article:

28 (xvi) Attempted robbery under § 3-403 of the Criminal Law Article;
29 [or]

30 (xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the
31 Criminal Law Article; OR

32 (XVIII) A VIOLATION § 9-302, § 9-303, OR § 9-305 OF THE CRIMINAL
33 LAW ARTICLE;

34 10-901.

35 (A) A STATEMENT IS NOT EXCLUDED BY THE HEARSAY RULE IF THE
36 STATEMENT IS OFFERED AGAINST A PARTY THAT HAS ENGAGED OR ACQUIESCED IN

1 WRONGDOING THAT WAS INTENDED TO AND DID PROCURE THE UNAVAILABILITY OF
2 THE WITNESS AS DEFINED IN MARYLAND RULE 5-804 WHO WAS THE DECLARANT OF
3 THE STATEMENT.

4 (B) THE COURT SHALL DETERMINE THE ADMISSIBILITY OF A STATEMENT
5 UNDER THIS SECTION IN THE MANNER PROVIDED IN THE MARYLAND RULES.

6

Article - Criminal Procedure

7 4-202.

8 (b) Except as provided in subsection (c) of this section, a court exercising
9 criminal jurisdiction in a case involving a child may transfer the case to the juvenile
10 court before trial or before a plea is entered under Maryland Rule 4-242 if:

11 (1) the accused child was at least 14 but not 18 years of age when the
12 alleged crime was committed;

13 (2) the alleged crime is excluded from the jurisdiction of the juvenile
14 court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and

15 (3) the court determines by a preponderance of the evidence that a
16 transfer of its jurisdiction is in the interest of the child or society.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect October 1, 2004.